IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

R.F.A. No. 846 of 1989
Date of Decision: Dec.6,2006

Mulkh Raj ..... Appellant

Versus

The Union of India and others ..... Respondents

Coram: Hon'ble Mr. Justice Ashutosh Mohunta

Present: Mr. Hemant Sarin, Advocate
for the appellants.

Mr. Kamal Sehgal, Sr. Penal Counsel for UOI and
Mrs. Daya Chaudhary, Asstt. Solicitor General of India.

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ASHUTOSH MOHUNTA, J. (Oral)

This judgment shall dispose of R.F.A. Nos. 841, 843, 845, 846, 1596, 1597, 1598 and 1604 of 1989 as all these appeals arise out of the same notification by which the land of the land-owners was acquired and common award was passed by the Additional District Judge, Gurdaspur, dated 24.2.1989.

The appellants in all these appeals are challenging the determination of compensation qua the fruit bearing trees only.

Briefly the facts of the case are that vide notification issued under Section 4 of the Land Acquisition Act (for short `the Act') dated 26.8.1977 land situated in the revenue estate of village Sanghar, Tehsil Pathankot, District Gurdaspur, was acquired for defence purposes. Declaration under Section 6 of the Act was issued thereafter. Compensation for the land was determined and vide a supplementary award passed by the Special Land Acquisition Collector, Amritsar, dated 3.1.1986 compensation of not only the land was determined but compensation was also awarded for the orchards i.e. fruit bearing trees of different owners standing on the land acquired.

Mr. Hemant Saini, counsel for the appellants, has contended that while determining the compensation for the fruit bearing trees the Additional District Judge has relied on the valuation report Ex.A1 submitted by Shri B.L.Chhabra RW1 who assessed the compensation on the basis of formula prepared by Shri Harbans Singh, Former Director Horticulture, Himachal Pradesh. The aforementioned formula was based on the market conditions prevalent in the year 1966 whereas the notification under Section 4 of the Act in the specific case was issued on 26.8.1977. It is contended by the learned counsel that the appellants were entitled to proportionate increase between the year 1966-77 as the formula had not been revised after the year 1966. Learned counsel has also relied on the judgment in R.F.A. No. 1613 of 1989 titled as ***Union of India and others v. Krishan Singh***.

Mr. Sehgal, learned Senior Penal Counsel appearing for the Union of India, admits that the formula for fruit bearing trees has not been revised after the year 1966. It is contended that as the Additional District Judge has already given enhancement of 133% to the land-owners for the fruit bearing trees, therefore no further enhancement is called for. He also relies on the judgment in ***Krishan Singh's case*** (supra).

A perusal of the aforesaid judgment shows that the compensation to the appellants has been determined on the basis of valuation report submitted by Shri B.L.Chhabra RW1. He had assessed the compensation on the basis of formula prepared by Shri Harbans Singh, Former Director Horticulture, Himachal Pradesh.

As the appellants have already been given an increase of 133% over the market value as assessed by the Special Land Acquisition Collector by taking into consideration the increase in the wholesale price index from the year 1966 to 77, therefore, the appellants are not entitled to any further enchancement.

In view of the above, by placing reliance on the judgment in ***Krishan Singh's case*** (supra) all the appeals are dismissed.

(ASHUTOSH MOHUNTA)
JUDGE

6.12.2006
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